

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/633,137 Confirmation No. 3128
Applicant : Muhammad Athar Shah and Michael J. Horowitz
Filed : August 1, 2003
TC/A.U. : 2621
Examiner : Anand Shashikant Rao
Docket No. : 199-0201US
Customer No. : 29855
Title : METHODS FOR ENCODING OR DECODING IN A VIDEOCONFERENCE SYSTEM
TO REDUCE PROBLEMS ASSOCIATED WITH NOISY IMAGE ACQUISITION

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is filed to request reconsideration of the Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) for Application Serial No. 10/633,137 filed 1 August 2003. A fee for this Petition is filed herewith. Applicants believe that no additional fees are due in connection with this Petition. However, should any fees or refunds be due, the Office is authorized to charge or credit such fees or refunds to Deposit Account No. 501922, referencing attorney docket number 199-0201US.

Remarks begin on page 2 of this paper.

REMARKS

Applicants have received a GRANTED Patent and corresponding determination of Patent Term Adjustment under 35 U.S.C. 154(b), for Application Serial No. 10/633,137 now U.S. Patent No. 7,782,940 with Issue date 24 August 2010. The calculated Patent Term Adjustment (PTA) is indicated as **1876 days**. However, Applicants believe the correct determination should be **1907 days** for the reasons stated below. Applicants respectfully request verification of the calculation and proper correction of the calculated term adjustment via a Certificate of Correction.

The pertinent dates for initially calculating the PTA for this case are as follows:

- 1) 8/1/2003 Application filing date;
- 2) 4/20/2007 mailing date of first Office Action;
- 3) 3/2/2009 Notice of Appeal filing date;
- 4) 5/4/2009 Filing date of Appeal Brief;
- 5) 6/22/2010 Notice of Allowance mailing date;
- 6) 8/24/2010 Issue date of Patent 7,782,940.

There are several categories of time calculation set forth in 37 C.F.R. 1.703 under subheadings a-g. Any time accumulated due to delays in prosecution attributable to the Applicant will reduce the calculated PTA. Applicants note that this request for reconsideration is filed within the required two month time period following the Issue date of the Patent. Applicants further note that this Application is not currently subject to a Terminal Disclaimer.

A-Time Calculation

The time period set forth under 37 C.F.R. 1.703(a), A-Time, allows fourteen months from the filing date for the Office to issue a first Office Action. The 14 month date in this case was 10/1/2003 and the first Office Action was not mailed until 4/20/2007. The A-Time allocated before the first Office Action is calculated as the duration between the 14 month date and actual mail date of first Office action. This duration is **931 days** as correctly calculated by the Office.

A-Time also allows four months for Office Actions responsive to Applicant's previous amendments or Appeal Briefs. In this case, the office has properly allocated **291** days of Office delay for the time frame from 9/5/2009 (4 months after filing of Appeal Brief) through 6/22/2010 Notice of Allowance mail date. The two periods of A-Time delay mentioned above do not overlap with any of the B-Time described below because the B-Time and A-time are not allowed to overlap. There are no other periods of A-Time Office delay to consider in this case. Therefore, the total A-Time delay for this case should be calculated at **1222 days**.

B-Time Calculation

The time period set forth under 37 C.F.R. 1.703(b), B-Time, allows three years from the filing date for the Office to issue a Patent. The 3 year date in this case was 8/1/2006 and the Patent was not issued until 8/24/2010. B-Time does not include any overlap with A-Time and does not include the period between filing a Notice of Appeal and in this case the Notice of Allowance. This duration can be described as between 4/20/2007 (end of A-Time calculation above) and 3/2/2009 (date of Notice of Appeal) plus the time between 6/22/2010 (Notice of Allowance) and 8/24/2010 (Issue date). When calculated this duration is **682 + 65 = 747 days**. There are no other periods of B-Time Office delay to consider in this case. Applicants note that no Request for Continued Examination was filed in this case and that time spent in Appellate review did not receive a determination from the Board of Patent Appeals and Interferences.

Reduction of period of adjustment

As required by 35 U.S.C. § 154 (C) the period of adjustment shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application. In the present case, the Office has correctly allocated **62 days** of applicant delay associated with requests for extensions of time.

Conclusion

The correct PTA calculation appears to be 1222 days (A-Time) plus 747 days (B-Time), which results in **1969** days minus any reduction attributable to Applicant delay (1969 days minus 62 days). This calculation results in a correct PTA of **1907 days**. If appropriate, the Office should not hesitate to contact the undersigned by phone to discuss this case. Applicants

respectfully request the Office reconsider this request and issue a proper Certificate of Correction for this case.

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Respectfully submitted,

/William M. Hubbard/

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